

**Amendment and Response**

Applicant: Norman L. Oberski et al.

Serial No.: 10/6232,848

Filed: July 18, 2003

Docket No.: A126.113.102

Title: INSPECTION TOOL WITH A 3D POINT SENSOR TO DEVELOP A FOCUS MAP

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**REMARKS**

This is responsive to the Non-Final Office Action mailed April 19, 2005. In that Office Action, the Examiner objected to the Abstract as “not accurately portray[ing] the features of the claimed invention.”

The Examiner also rejected claims 1-10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Claims 1-5, 8-14, and 18-21 were rejected under 35 U.S.C. §102(e) as being anticipated by Shimoda et al., U.S. Patent Application Publication No. 2003/0053676 (“Shimoda”). Claims 15-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shimoda. Claims 6 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Shimoda in view of Clark, U.S. Patent Application Publication No. 2004/0021877 (“Clark”).

With this Response, claims 1-6 and 11 have been amended. Claims 1-21 remain pending in the application and are presented for reconsideration and allowance.

**Objection to the Abstract**

The Examiner objected to the abstract for failing to accurately portray the features the claimed invention. The abstract has been amended herewith in an attempt to correct any objectionable deficiencies. As such, withdrawal of the Examiner’s objection on such grounds is respectfully requested.

**35 U.S.C. §112, Second Paragraph Rejections**

The Examiner rejected claims 1-10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In particular, the Examiner stated that claim 1 fails to provide sufficient structure and that reciting only an auxiliary sensor does not further limit an inspection system. Claim 1 as amended relates, in part, to an inspection device and an auxiliary sensor. As such, it is believed that the Examiner’s rejection under 35 U.S.C. §112, second paragraph, is traversed. Withdrawal of the rejection of claims 1-10 on such grounds is respectfully requested.

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**35 U.S.C. §§102, 103 Rejections**

The Examiner rejected claims 1-21 under 35 U.S.C. §§102(e) and 103(a) as either being anticipated by Shimoda, unpatentable over Shimoda, or unpatentable over Shimoda in view of Clark. Neither Shimoda nor Clark are prior art to the present application under 35 U.S.C. §§102 and 103. In particular, Shimoda has a §102(e) prior art date of September 13, 2002 (it being noted that under §102(e), Shimoda's alleged Japanese priority date of September 13, 2001 is not relevant (MPEP §2136.03I)), and Clark has a §102(e) prior art date of August 5, 2002, while the present application has an effective filing date of July 18, 2002, properly claiming the benefit of U.S. Provisional Application Serial No. 60/397,355. As such, because Shimoda and Clark are not available as §102(e) references, the Examiner's rejections are believed traversed. Withdrawal of the rejection on those grounds is respectfully requested with allowance and notice to that effect provided.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-21 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-21 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment and Response should be directed to Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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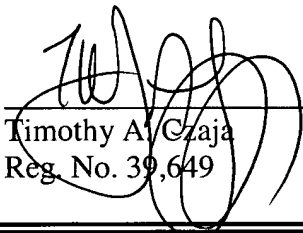
Respectfully submitted,

Norman L. Oberski et al.,

By their attorneys,

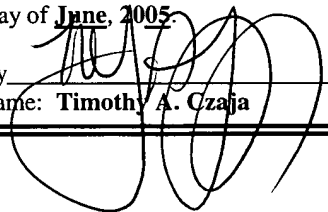
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CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 30th day of June, 2005.

By   
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Name: Timothy A. Czaja